EXTERNAL SECURITY FACILITY

Executive summary

1. This paper draws together the range of advice the current SPCB has considered on the External Security Facility (ESF) over a period of months.

2. At its meeting on 26 October, the SPCB was given an update on progress. This included detailed confidential security advice from the Parliament’s security adviser and Lothian and Borders Police, comprehensive legal advice and an initial cost estimate, subject to planning approval and procurement of the construction phase. The SPCB was also given a presentation by the architect on the proposed facility.

3. This paper invites the SPCB to decide whether or not it wishes to progress to the next stage and, if so, to which timetable.

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Background

4. In 2007, the SPCB commissioned and received official security advice about the security measures in place at the Parliament in relation to current risks and threats. A number of recommendations were made to improve the security of the Parliament and the key theme was the need to extend the security perimeter beyond the immediate building.

5. Most of the recommendations have already been implemented, including the installation of turnstiles at the Queensberry House and Canongate entrances, a new vehicle entry system and importantly new bollards and other streetscape measures designed to improve resistance to vehicle attacks. The SPCB decided at the time that these measures were the initial priority to protect the Parliament, coming just after the Glasgow Airport attack, as they addressed the most likely threat at that time.

6. The one major recommendation not yet implemented is the provision of an external security facility to provide a significantly safer and secure environment for screening visitors while also protecting over 400,000 visitors per year, up to 1000 daily passholders comprising staff and Members, media and contractors and the infrastructure of the Parliament building. The measures which have already been implemented have ensured the extension of the security perimeter, with the exception of an external security facility; building it would complete the extension of the security perimeter.
**Progress so far**

7. The previous SPCB agreed to a staged approach in which, at all key points in the process, the SPCB would decide whether or not it wished to proceed to the next stage. The current SPCB reviewed that approach and has agreed that it also wishes to follow a staged approach.

8. The first stage agreed by the SPCB was to award a contract to design the external security facility. Taking account of the original security recommendations and the most recent security advice, a range of potential locations for a new public entrance were considered in detail before settling upon the site that has been now developed in design terms. The starting point for this exercise was a re-evaluation of the existing public entrance and it was determined that it was no longer the best location. Because the nature of the threat had changed since the building was designed, it was considered to be too close to the main hall and the chamber.

9. Earlier this year, the previous SPCB awarded a contract to design the facility. The contract provides for a number of stages:

   - **Stage 1** – From 'concept' to 'completion of detailed planning application submission drawings'.
   - **Stage 1A** – Planning application: submitted to CEC; consideration period, and planning decision.
   - **Stage 2** – Completion of design.
   - **Stage 3** – Construction tender period (following separate Procurement PQQ selection of suitable contractors); evaluation and recommendation on whether to award the construction contract.
   - **Stage 4** – Construction of the facility.
   - **Stage 5** – Making Good Defects period (12 months following practical completion of the project).

10. The SPCB reserved the right to postpone or terminate at the end of any of the first 4 stages (ie 1, 1A, 2 and 3) to cover all eventualities, for example planning approval not being received or the SPCB reaching a view that the associated costs and timescale were not reasonably practicable. The remaining stages refer to the construction phase of the project and would only apply if SPCB approval to proceed beyond stage 4 was granted.

11. With the agreement of the previous SPCB, the concept for the external security facility has been developed to include consideration of the potential to adapt the main hall based on a new entrance point, to improve the flow for schools and the public using the space. SPCB was therefore presented on 26 October with a number of potential changes to the main hall which were desirable for operational reasons rather than essential to improve security.
SPCB considered the proposals but agreed unanimously that, in the current economic climate, only those changes necessary to achieve the security rationale should be considered as part of its final decision-making.

**Latest Security Advice**

12. Earlier this year we asked our security adviser to review the recommendations received in 2007. In response, we received clear advice from the SPCB’s security adviser, other official security sources and the police that the original recommendations remain every bit as valid in today’s security context. The SPCB was presented with that advice at the meeting on 26 October and, following questioning of the adviser and extensive discussion, they accepted it.

**Visitor Experience/Duty of Care**

13. The Parliament has a commitment to public accessibility and openness, and it is essential that we have a secure infrastructure which can maximise the protection and safety of visitors and other building users, as well as protect the integrity of the Parliament building. Given the changed nature of the threat since Holyrood opened, the location of the existing Public Entrance and security facility, immediately adjacent to the Main Hall area which has a significant yearly footfall of over 400,000 visitors, including schools, crèche users, tour groups and general visitors and is below and adjacent to the debating chamber, makes this much more difficult to achieve.

14. The design of a new external security facility would greatly improve the SPCB’s duty of care in respect of all who access the building by increasing the range of deterrents to disruption and enabling more tactical measures to be deployed to deal with any emerging situation. It would be linked to the building via a walkway which would provide the fundamental means of isolating threats either inside the facility or between the facility and the existing building.

15. The facility would incorporate current blast technology and materials and, crucially, would be designed to minimise damage to the existing building and to the immediate surrounding environment which are the areas significantly occupied by visitors, staff and Members during the week.

16. The new layout would not only provide a safer environment for those visiting the Parliament, but it would also ensure that the same sense of public accessibility and openness is maintained. Visitors would not be subject to any discernible difference in the levels of security screening during normal security states and would continue to enjoy the same level of access to Holyrood and its facilities.

17. As part of their detailed consideration of the proposed facility, members of the SPCB visited the Houses of Parliament in London on 31 October and the Northern Ireland Assembly in Belfast on 7 November to explore the external security facilities at those locations.
Legal Advice

18. The SPCB asked for legal advice to help inform its decision. That legal advice makes clear that the SPCB has a duty of care to MSPs, staff and visitors who work in or visit the Parliament complex. It must ensure that it puts in place sufficient measures to minimise the effects such as those identified by the security advisers to the extent that it is reasonably practicable (the statutory test) in the circumstances to do so. The question of what is reasonably practicable is ultimately a question of fact for a jury depending on the circumstances of each case. The SPCB must ensure that it can demonstrate that it has carried out a thorough and balanced examination of the issues against the associated risks to enable it to be satisfied that the proposed facility is a reasonably practicable measure to address the threats as identified in the security advice.

19. Failure to carry out measures that are in law reasonably practicable could leave the SPCB and its individual members open to prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 for a failure of the duty of care under the Occupier’s Liability (Scotland) Act 1960, or under the Health and Safety at Work etc Act 1974 in the event of a person being killed (or injured) in a way that could have been prevented by the construction of the facility.

20. There could also be civil liability for any injury or death, which could amount to substantial damages depending on the circumstances.

Options

21. There are two principal options available to the SPCB;

Option 1: The SPCB could decide, having duly considered the submitted design and the associated cost plan, in conjunction with other information received, that it is not reasonably practicable to proceed.

Option 2: The SPCB could decide that it is reasonably practicable to proceed to the next stage. If such a decision is taken, there are 2 timing options:

Option 2A: Proceed to submit the design for planning permission but halt further work, including detailed design, until planning permission has been granted, to enable the SPCB to decide at that stage if it wishes to proceed to the next stage, detailed design. Based on recent meetings with representatives of the City of Edinburgh’s planning department and their positive response to the design proposals tabled, it is felt that the approval period may well be reduced: statutorily it could be granted after two months. However, starting detailed design work after even a shortened planning period would not, if the SPCB subsequently decided to proceed, result in any construction work being undertaken on site during the financial year 2012-2013.
**Option 2B:** this option would enable the process to proceed more quickly and, crucially, would mean that the capital expenditure (should the SPCB subsequently decide to proceed to build the facility) could be incurred earlier and straddle 2 financial years. In particular, if the SPCB was attracted to this option and was able to take a decision to proceed to the next stage, a substantial proportion of the capital expenditure would be incurred in 2012-13, enabling us to plan now to have budgetary resources available, if a subsequent decision were taken to go ahead.

This programme would be achieved by completing the detailed design in parallel with the planning approval period. This would mean continuing with more detailed design in advance of planning approval being received, but this is considered to be a low risk based on meetings already held with the planning authority, as noted above.

The size, shape, location and principal materials to be used for the new facility are now established and shown on drawings which will be submitted in support of the planning application. The proposed materials will be in keeping with the rest of the building. The purpose of the developed design is to provide large scale details to facilitate construction and, as these will not be altering any of the drawings submitted for planning significantly, this is regarded as a low risk option.

It would of course still be open to the SPCB not to proceed to the next stage once planning permission had been received, but further design costs would have been incurred which would not have been incurred under option 2A. We can assure the SPCB that, whether design works continue in parallel with the planning application or subsequent to planning permission having been achieved, the design will be fully complete before the SPCB is invited to agree whether or not to tender for the construction of the facility.

22. **The SPCB is invited to decide whether it wishes to proceed to the next stage and, if so, whether it wishes to proceed on the basis of option 2A or option 2B.**

23. As mentioned above, we have also looked at the potential to reconfigure the Main Hall to provide more efficient use of the area with improved facilities. If the SPCB agrees to proceed to the next stage (under either option 2A or B), it has the option either of limiting any changes to the Main Hall to works essential to facilitate the use of the new entrance, or of proceeding with some or all of the other proposed changes to the Main Hall. SPCB discussed this at its meeting on 26 October and were unanimously of the view that, in the light of the current economic situation, we should proceed only with the bare minimum of changes necessary to improve security. The **SPCB is invited to confirm that, if a decision is taken to proceed to the next stage, it should not include any of the non-essential reconfigurations of the main hall.**
Resource Implications

24. The SPCB was informed of the estimated potential costs at the 26 October meeting. Information on the potential costs of the project, including a detailed cost plan, is set out in a separate SPCB paper (SPCB(2011)Paper 52). If a decision is taken to proceed to the planning permission stage and, if a later decision is taken to go out to tender for the construction of the facility, it is the clear advice of our Procurement Office that to publish details of the estimated costs at this stage could seriously compromise the tender process. It could potentially influence bid prices from construction companies, and best value for money for the taxpayer might not be achieved. We recommend, however, that the cost details should be published if the construction contract is awarded.

25. SPCB has made clear that, if a decision is subsequently taken to proceed to build the facility, every effort would be made to meet as much of the costs as possible from within existing resources.

Governance

26. Proposals on potential governance arrangements were recently presented to the SPCB. The SPCB agreed that, if a decision is subsequently taken to tender for construction of the facility, officials should bring forward detailed governance proposals for the SPCB’s consideration and approval.

Discussion

27. We are aware that this will be a very important decision for the SPCB and that the issues are highly complex. The issues which the SPCB will wish to focus on are:

- The advice from our security adviser, and other official security and police advice about the need to address a security threat. Although the likelihood is low at the current time, the advice from our security advisers is that retention of the current facility poses a medium to high threat to the security and business continuity of the Parliament, based on an analysis of threat, vulnerability, impact and consequences. There is, however, no imminent or specific threat to the Scottish Parliament at the current time.

- The SPCB has a duty of care to all building occupants, including Members, their staff, Parliament staff and the public.

- Successive SPCBs have always sought to uphold the founding principle that the Parliament should be open and accessible, but that this has to be balanced against security needs. The proposed new facility would not fundamentally alter the visitor experience and arguably would improve it. Visitors are searched currently when entering the building and that experience will not change. The building would still feel open
and accessible and the new facility would offer a more clearly identified entry point.

- Physical security measures are only one part of our overall security response. Equally important is the way our wider security policy is operated; eg numbers of security officers, their working practices and the way in which they interact with the public. This is and will continue to be important in terms of making sure that the building feels open and accessible. Our wider security policy is and will continue to be kept under review to take account of technological developments as well as changing threat types.

- If the SPCB is minded to accept that the weakness in the current security arrangements, as identified in the security advice, is sufficient to act, and is satisfied that the proposed approach does not undermine our commitment to openness and accessibility, the question is whether or not to proceed to the next stage.

- At later stages in the process, and when taking a final decision on whether or not to proceed with construction, the SPCB will wish to take account of whether the cost and timescale for building the facility are reasonable.

28. Taking account of all the security and legal advice the SPCB has received, together with the information on the potential cost implications, it is the recommendation of senior officials that the SPCB should proceed to the next stage.

Publication Scheme

29. This paper will be published in line with the SPCB’s Publication Scheme.

Next steps

30. The next steps will depend on the decision taken by the SPCB. If a decision is taken to proceed to the next stage, the planning application would be lodged with the City of Edinburgh Council as soon as possible thereafter. If the SPCB decides to proceed with option 2B, the architects would also be instructed to proceed with detailed design.

Decision

31. The SPCB is invited to decide;

- whether it wishes to agree with the recommendation to proceed to the next stage and, if so;

- whether or not it wishes to proceed with the timetable in option 2A or option 2B;
to confirm that it does not wish to incorporate any Main Hall reconfigurations, other than those essential to accommodate the new facility.

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November 2011